

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PHILLIP A. JONES,	§	
	§	No. 511, 2007
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0211004325
Appellee.	§	

Submitted: June 6, 2008
Decided: August 28, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 28th day of August 2008, upon consideration of the briefs on appeal and the Superior Court record it appears to the Court that:

(1) The appellant, Phillip Jones, has appealed the Superior Court's August 28, 2007 denial of his motion for postconviction relief. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) Jones was indicted in 2003 on charges of Murder in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony. In 2004, Jones pled guilty to one charge, *i.e.*, Murder in the Second Degree, as a lesser included offense of the first degree murder charge, and the State nolle prossed the weapons charge. At Jones' sentencing, the Superior Court imposed eighteen years

at Level V imprisonment suspended after fifteen years for decreasing levels of supervision.

(3) In August 2006, Jones filed a motion for postconviction relief pursuant to Superior Court Criminal Rule 61. Jones alleged that his 2004 guilty plea was involuntary due to ineffective assistance of counsel.

(4) By affidavit, Jones' defense counsel ("counsel") responded to the allegations of ineffectiveness.¹ Jones then filed a motion to amend, which the Superior Court deemed to be Jones' reply to the affidavit.² The Superior Court denied relief after considering the merit of Jones' postconviction motion and his reply to counsel's affidavit. This appeal followed.

(5) In his opening brief on appeal, Jones alleges, that his counsel was ineffective for failing to interview witnesses and to investigate the case. Jones also alleges that his counsel coerced him into pleading guilty.³

(6) To prevail on his claim of ineffective assistance of counsel in the context of his guilty plea, Jones must demonstrate that "counsel's representation fell below an objective standard of reasonableness,"⁴ and "there is a reasonable

¹ Del. Super. Ct. Crim. R. 61(g)(2).

² Del. Super. Ct. Crim. R. 61(g)(3).

³ To the extent Jones raised any other issues in his postconviction motion and reply to counsel's affidavit, those claims are deemed waived for Jones' failure to brief them on appeal. *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997).

⁴ *Hill v. Lockhart*, 474 U.S. 52, 58 (1985) (quoting *Strickland v. Washington*, 466 U.S. 668, 687-88) (1984)).

probability that, but for counsel's errors, [Jones] would not have pleaded guilty and would have insisted on going to trial.”⁵

(7) Our review of the record in this case, including the transcript of the guilty plea colloquy, does not support Jones' claim that his counsel coerced him into pleading guilty or that his counsel was ineffective. Clearly, the guilty plea agreement provided Jones with a clear benefit, since it involved the dismissal of a serious felony and the reducing of another that could have resulted in his imprisonment for life. Moreover, Jones denied that he had been threatened or forced to plead guilty, and he stated that he was satisfied with his attorney's representation.⁶ In the absence of clear and convincing evidence to the contrary, we conclude that Jones is bound by the representations he made during his plea colloquy, including that he was satisfied with his counsel's performance.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁵ *Hill v. Lockhart*, 474 U.S. at 59. See also *Albury v. State*, 551 A.2d 53, 60 (Del. 1988).

⁶ Hr'g Tr. at 4-6 (Feb. 5, 2004).